

Document 11-10 Filed 08/26/14

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

THE ROCKEFELLER UNIVERSITY, a  
New York not-for-profit corporation,

Plaintiff,

V.

LIGAND PHARMACEUTICALS  
INCORPORATED, a Delaware corporation,

Defendant.

x Index No. 08/600638

**: NOTICE OF FILING OF NOTICE OF  
: REMOVAL**

**X**

Please take notice that pursuant to 28 U.S.C. §1446, § 1441 and Local Rule 81.1 of the United States District Court for the Southern District of New York, the above captioned action has been removed to the United States District Court for the Southern District of New York. A true and correct copy of the Notice of Removal filed by defendant LIGAND PHARMACEUTICALS INCORPORATED is annexed hereto as Exhibit A. The Notice of Removal was filed with the Office of the Clerk of the United States District Court for the Southern District of New York on March 14, 2008.

This Court is respectfully requested to proceed no further in this action unless and until the action is remanded by the United States District Court for the Southern District of New York.

Dated: New York, New York  
March 14, 2008

Respectfully submitted,

GREENBERG TRAURIG, LLP

By:

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New York, New York 10166  
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NEW YORK  
COUNTY CLERK'S OFFICE

MAR 14 2008

Attorneys for Defendant  
LIGAND PHARMACEUTICALS INCORPORATED

Exhibit "6"

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Index No. 08600638

### Proof of 5

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKTHE ROCKEFELLER UNIVERSITY, a  
New York not-for-profit corporation,

Plaintiff,

v.

LIGAND PHARMACEUTICALS  
INCORPORATED, a Delaware corporation,

Defendant.

x Civil Action No.

08 CV 2755

: NOTICE OF REMOVAL OF CIVIL  
: ACTION UNDER 28 U.S.C. §1441  
: (FEDERAL QUESTION AND  
: DIVERSITY)

JUDGE CASTEL

: Removed from the Supreme Court of the  
: State of New York, County Of New York  
: Index No. 600638/08

x

**PLEASE TAKE NOTICE THAT** defendant Ligand Pharmaceuticals Incorporated (hereinafter "Ligand"), by and through undersigned counsel, without waiving any arguments, claims or defenses (including those available pursuant to Fed. R. Civ. P. 12(b)), hereby removes to this Court the state court action described below.

1. On March 4, 2008, an action was commenced in the Supreme Court of the State of New York in and for the County of New York, entitled THE ROCKEFELLER UNIVERSITY, Plaintiff, v. LIGAND PHARMACEUTICALS, INC., Defendant, Index Number 08/600638. A copy of the Complaint is attached hereto as "Exhibit A."

2. The first date upon which defendant Ligand received a copy of the said complaint was March 4, 2008, via electronic mail. On March 5, 2008, Defendant Ligand was served with a copy of the said Complaint and a Summons from the said state court. A copy of the Summons is attached hereto as "Exhibit B." As this notice of removal is filed within thirty days of Ligand's receipt of the Summons and Complaint, it is timely filed under 28 U.S.C. § 1446.

**Grounds for Removal**

3. This Action may be removed to this Court pursuant to 28 U.S.C. § 1441(b) on two independent bases. First, this action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1332, based on the complete diversity of citizenship of the parties and the amount in controversy exceeding the statutory minimum. Second, this Court has exclusive jurisdiction over

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this action under 28 U.S.C. §1338, which grants district courts exclusive original jurisdiction of any civil action arising under any Act of Congress relating to patents.

**Diversity Jurisdiction**

4. As alleged in paragraph 1 of the Complaint, plaintiff The Rockefeller University (the "University") was, and still is, a New York corporation whose principal place of business is in the State of New York, as stated in paragraph 1 of the Complaint. As stated in paragraph 2 of the Complaint, Defendant Ligand was, at the time of the filing of this action, and still is, a Delaware corporation having a principal place of business in the State of California. Ligand is the only defendant that has been served with the Summons and Complaint in this action.

5. Accordingly, there is complete diversity of citizenship between the parties to this Action.

6. As alleged in the Complaint, the matter in controversy exceeds the sum of \$75,000, exclusive of interests and costs, as at least paragraphs 37 and 46 of the Complaint allege damages "no less than \$1.91 million," and paragraphs 49 and 54 allege damages "in no event less than \$1.91 million."

**District Court's Exclusive Jurisdiction Over Actions Pertaining To Patents**

7. This action is a civil action that may be removed to this Court by defendants pursuant to the provisions of 28 U.S.C. §1441(b) in that it arises under 28 U.S.C. §1338, granting the district courts exclusive original jurisdiction of any civil action arising under any Act of Congress relating to patents. The plaintiff's right to relief necessarily depends on resolution of a substantial question of federal patent law, in that the infringement and validity of the patents subject to the 1992 Agreement between Ligand and the University are necessary elements of all of the alleged claims.

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**WHEREFORE**, Defendant requests that the New York State Supreme Court, New York County, proceed no further with Index No. 600638/08 and that said action be removed from that court to the United States District Court for the Southern District of New York.

Dated: New York, New York  
March 14, 2008

Respectfully submitted,

**GREENBERG TRAURIG, LLP**

By: 

Simon Miller

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New York, New York 10166  
(212) 801-9200

Attorneys for Defendant  
LIGAND PHARMACEUTICALS INCORPORATED

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